

MEMORANDUM

TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES

**TO: Chair and Members
Department of Family and Protective Services Council**

**FROM: Howard Baldwin
Interim Commissioner**

**SUBJECT: Agenda Item 5e: Recommendation to propose rule changes
in 40 TAC, Chapter 748, General Residential Operations; and
Chapter 749, Child-Placing Agencies; regarding training and
handguns**

DATE: October 21, 2011



BACKGROUND AND PURPOSE

The department is proposing rule changes to Chapters 748 and 749. The purpose of the rule changes is to implement legislation passed during the 82nd Legislative Session.

Senate Bill (S.B.) 265 adds trainer minimum qualifications to Human Resources Code §42.0421. All training outlined in this section of the law must be conducted by a person who meets one of seven options for minimum qualifications listed in the new law.

S.B. 471 requires child-placing agencies to have specific policies and training related to child abuse and neglect.

House Bill (H.B.) 2560 prohibits Child Care Licensing from banning handguns in foster parent vehicles if the handgun is in the possession and control of the foster parent and the foster parent is licensed to carry the handgun.

DETAILED SECTION ANALYSIS AND DISPOSITION TABLE

Current Rule Sections	Proposed Action; New Rule Section	Summary Explanation of Proposed Action
§748.941	Amend	<p>S.B. 265 adds trainer minimum qualifications to Human Resources Code §42.0421. All training outlined in this section of the law must be conducted by a person who meets one of seven options for minimum qualifications listed in the law.</p> <p>This rule addresses instructor requirements for annual training. Since transportation safety training is required by Human Resources Code §42.0421, the instructor for transportation safety training must meet one of the qualifications now specified in law. Therefore, the proposed change to this rule outlines the instructor requirements for annual transportation safety training (consistent with the new law).</p>

Current Rule Sections	Proposed Action; New Rule Section	Summary Explanation of Proposed Action
§749.339	Amend	<p>S.B. 471 requires child-placing agencies to have specific policies and training related to child abuse and neglect.</p> <p>This rule lists all of the child-care policies a child-placing agency must have. The proposed change adds the requirement to have a policy on preventing, recognizing and responding to abuse, and neglect of children. Specific policy content is required which mirrors the new law.</p>
§749.931	Amend	<p>S.B. 471 requires child-placing agencies to have specific policies and training related to child abuse and neglect.</p> <p>This rule lists the annual training requirements for employees and caregivers. The proposed addition to this rule requires one hour of annual training for child-placing agency employees on preventing, recognizing and responding to abuse and neglect of children. Training content is also specified, which mirrors content requirements in the law.</p>
§749.939	Amend	<p>S.B. 265 adds trainer minimum qualifications to Human Resources Code §42.0421. All training outlined in this section of the law must be conducted by a person who meets one of seven options for minimum qualifications.</p> <p>This rule addresses instructor requirements for annual training. Since transportation safety training is required by Human Resources Code §42.0421, the instructor for transportation safety training must meet one of the qualifications now specified in law. Therefore, the proposed change to this rule outlines the instructor requirements for annual transportation safety training (consistent with the new law).</p>
§749.2967	Amend	<p>This rule currently prohibits caregivers from riding in a vehicle with a foster child with a handgun in the vehicle. H.B. 2560 prohibits Child Care Licensing from banning handguns in foster parent vehicles if the handgun is in the possession and control of the foster parent and the foster parent is licensed to carry the handgun. The proposed rule conforms to the law.</p>

STATUTORY AUTHORITY AND STATUTES AFFECTED

The modification is proposed under Human Resources Code (HRC) §40.0505 and Government Code §531.0055, which provides that the Health and Human Services Executive Commissioner shall adopt rules for the operation and provision of services by the health and human services agencies, including the Department of Family and Protective Services; and HRC §40.021, which provides that the Department of Family and Protective Services Council shall study and make recommendations to the executive commissioner and the commissioner regarding rules governing the delivery of services to persons who are served or regulated by the department.

FISCAL IMPLICATIONS

(a) Fiscal Impact. For each of the first five years that the rules will be in effect there will not be costs or revenues to state or local government as a result of enforcing or administering this section.

(b) Public Costs and Benefits. For each of the first five years that the proposed sections will be in effect, the public benefit anticipated as a result of the rule change will be that staff of child-placing agencies will receive more training and information related to preventing, recognizing and responding to child abuse/neglect, and transportation training will be of a higher quality because it will be provided by more highly qualified training staff as required by law. There is no anticipated fiscal impact to persons as a result of these rules.

(c) Impact on Business. There is no anticipated adverse or economic impact on small, micro, and large businesses as a result of the proposed rule changes, because the proposed rule changes should not affect the cost of doing business, do not impose new requirements on any business, and do not require the purchase of any new equipment or any increased staff time in order to comply. The one hour of additional annual training that is required for preventing, recognizing and responding to child abuse/neglect will have no anticipated economic impact to business, because the training can be incorporated into the already required number of annual training hours.

(d) Local Employment Impact and Takings Statements. No local employment impact statement was required for this rule. The agency is not required to complete a takings impact assessment regarding the proposed section(s).

(e) Technology Impact. There is no anticipated impact on technology as a result of the proposed rule changes.

STAKEHOLDER INPUT

DFPS shared draft copies of the proposed rule changes with all members of the Committee on Licensing Standards for their review and comment. Stakeholder input will be obtained during the public comment period.

RECOMMENDATION

It is recommended that the Council consider the proposed rule action, as discussed in this memorandum, and that the Council recommend proposal, with or without changes to the rules as they are attached to this memo.

ATTACHMENTS

Attached is a copy of the proposed change to the rule sections as staff recommended for submittal to the *Texas Register*.